

G. H. Coley



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## Decision

**Matter of:** CAD/CAM On-Line, Inc.

**File:** B-226103

**Date:** March 31, 1987

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### DIGEST

Specifications for new equipment are not unduly restrictive of competition where the agency presents a reasonable explanation of why the specifications are necessary to meet its minimum needs and the protester fails to show that the restrictions are clearly unreasonable.

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### DECISIONS

CAD/CAM On-Line, Inc. (CAD/CAM), protests the terms of request for proposals (RFP) No. 5-75923/042, issued by the National Aeronautics and Space Administration (NASA), Goddard Space Flight Center, Greenbelt, Maryland. CAD/CAM contends that the RFP's requirement for new equipment unduly restricts competition.

We deny the protest.

The RFP requested proposals for two Level-0 Processor computer systems installed in a dual-configuration for the Generic Time Division Multiplexer (GTDM) Data Capture Facility (DCF). The RFP required that the mainframe, including memory and channels, and high density disks, be new equipment, but also specified that the other equipment could be new or used. CAD/CAM argues that, as a small business, it cannot compete with major manufacturers on new equipment, but can furnish the requested equipment in an "as new" condition and fully warrants the items as new. Further, states CAD/CAM, it will contractually agree to support the requested equipment for the entire projected system life of 10 years.

NASA explains that new equipment is required to ensure a high degree of reliability over a 10-year system life. The GTDM DCF is being developed to enable the processing of scientific data within hours after the data is generated by satellite experiments. Data must be processed in a time-perishable fashion since some experiments are connected on-line to other

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computers, ready to analyze within hours after the data is captured. NASA contends that used equipment presents a risk of intolerable down-time, since reliability deteriorates as equipment ages. Furthermore, argues NASA, computer chip technology changes rapidly, and manufacturers often no longer repair or sell parts for equipment of outdated design. NASA cites as an example its TELOPS system, which the computers being procured will replace, and which became operational with new equipment in 1978. International Business Machines Corporation (IBM) has not manufactured the machines for a number of years, and will neither honor the maintenance contract after September 1987 except on a time and materials basis nor guarantee the repair of the equipment.

In comments on the agency report, CAD/CAM argues that it provides refurbished equipment meeting current engineering change levels, as required by IBM in order to get a certificate of maintainability. CAD/CAM contends that it is a waste of money to have new equipment backing up new equipment since the statistical probability of the two Level-0 Processors being down at the same time is remote at best.

When a protester challenges specifications as unduly restrictive of competition, the procuring agency bears the burden of presenting prima facie support for its position -- that the restrictions are necessary to meet its actual minimum needs. This requirement reflects the agency's obligation to create specifications that permit full and open competition to the extent consistent with the agency's actual needs. 10 U.S.C. § 2305(a)(1) (Supp. III 1985). The determination of the government's minimum needs and the best method of accommodating those needs are primarily matters within the contracting agency's discretion. Arwell Corp., B-210792, Dec. 14, 1983, 83-2 C.P.D. ¶ 684. Consequently, once the agency establishes support for the challenged specifications, the burden shifts to the protester to show that the specifications in dispute are clearly unreasonable. CMI Corp., B-216164, May 20, 1985, 85-1 C.P.D. ¶ 572.

We do not believe that CAD/CAM has carried its burden of proof in this protest. We have previously considered arguments similar to those advanced by CAD/CAM, and concluded that new equipment requirements were reasonable in light of a critical need for reliability throughout the system life where the equipment would be used to provide field troop support or support for real-time flight testing. See Arwell Corp., B-210792, supra; International Business Machines Corp., B-198094, et al., Nov. 18, 1980, 80-2 C.P.D. ¶ 363. We note that here NASA has not insisted that all of the equipment furnished with the system be new, but has limited

its requirement to those components whose proper operation over a 10-year period is considered critical to enable the capture and processing of data within hours after being generated by experiments on scientific satellites. NASA has acknowledged that the dual configuration design of the Level-0 Processors with new components is more costly, but argues it is necessary to avoid even a single point of failure, which would affect the processing of data from the satellites and result in the loss of the data. CAD/CAM has simply not shown that the new equipment specifications here are unreasonable in light of NASA's requirements for high reliability over a long system life.

The protest is denied.

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General Counsel